

common areas, and other areas specified in local fire, building, or safety codes.

(3) Section 882.109(q), concerning shared housing, does not apply to this program.

(4) Section 882.404(b), concerning site and neighborhood standards, does not apply to this program, except that §882.404(b) (1) and (2) applies. In addition, the site must be accessible to social, recreational, educational, commercial, and health facilities, and other appropriate municipal facilities and services.

(c) *Financing.* Section 882.405 applies to this program.

(d) *Relocation.* Section 882.406 applies to a project assisted under this program.

(e) *HA-owned housing.* (1) A unit that is owned by the HA that administers the assistance under the ACC (including a unit owned by an entity substantially controlled by the HA) may only be assisted if:

(i) The unit is not ineligible under §882.803(a); and

(ii) HUD approves the base and contract rent calculations prior to execution of the Agreement and prior to execution of the HAP contract.

(2) The HA as owner is subject to the same program requirements that apply to other owners in the program.

#### **§882.804 Other Federal requirements.**

(a) Participation in this program requires compliance with the Federal requirements set forth in 24 CFR 5.105, and with the Americans with Disabilities Act (42 U.S.C. 12101 et seq.).

(b) For agreements covering nine or more assisted units, the following requirements for labor standards apply:

(1) Not less than the wages prevailing in the locality, as determined by the Secretary of Labor under the Davis-Bacon Act (40 U.S.C. 276a through 276a-5), must be paid to all laborers and mechanics employed in the development of the project, other than volunteers under the conditions set out in 24 CFR part 70;

(2) The employment of laborers and mechanics is subject to the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333); and

(3) HAs, owners, contractors, and subcontractors must comply with all related rules, regulations, and requirements.

(c) The environmental review requirements of 24 CFR part 58, implementing the National Environmental Policy Act and related environmental laws and authorities, apply to this program.

#### **§882.805 HA application process, ACC execution, and pre-rehabilitation activities.**

(a) *Review.* When funds are made available for assistance, HUD will publish a notice of funding availability (NOFA) in the FEDERAL REGISTER in accordance with the requirements of 24 CFR part 4. HUD will review and screen applications in accordance with the guidelines, rating criteria, and procedures published in the NOFA.

(b) *ACC Execution.* (1) Before execution of the annual contributions contract (ACC), the HA must submit to the appropriate HUD field office the following:

(i) Estimates of Required Annual Contributions, Forms HUD-52672 and HUD-52673;

(ii) Administrative Plan, which should include:

(A) Procedures for tenant outreach;

(B) A policy governing temporary relocation; and

(C) A mechanism to monitor the provision of supportive services.

(iii) Proposed Schedule of Allowances for Tenant-Furnished Utilities and Other Services, Form HUD-52667, with a justification of the amounts proposed;

(iv) If applicable, proposed variations to the acceptability criteria of the Housing Quality Standards (see §882.803(b)); and

(v) The fire and building code applicable to each structure.

(2) After HUD has approved the HA's application, the review and comment requirements of 24 CFR part 791 have been complied with, and the HA has submitted (and HUD has approved) the items required by paragraph (b)(1) of this section, HUD and the HA must execute the ACC in the form prescribed by HUD. The initial term of the ACC must be 11 years. This term allows one

year to rehabilitate the units and place them under a 10-year HAP contract. The ACC must give HUD the option to renew the ACC for an additional 10 years.

(3) Section 882.403(a) (Maximum Total ACC Commitments) applies to this program.

(4) Section 882.403(b) (Project account) applies to this program.

(c) *Project development.* Before execution of the Agreement, the HA must:

(1)(i) Inspect the structure to determine the specific work items that need to be accomplished to bring the units to be assisted up to the Housing Quality Standards (see § 882.803(b)) or other standards approved by HUD;

(ii) Conduct a feasibility analysis, and determine whether cost-effective energy conserving improvements can be added;

(iii) Ensure that the owner prepares the work write-ups and cost estimates required by § 882.504(f); and

(iv) Determine initial base rents and contract rents;

(2) Assure that the owner has selected a contractor in accordance with § 882.504(g);

(3) After the financing and a contractor are obtained, determine whether the costs can be covered by initial contract rents, computed in accordance with paragraph (d) of this section; and, if a structure contains more than 50 units to be assisted, submit the base rent and contract rent calculations to the appropriate HUD field office for review and approval in sufficient time for execution of the Agreement in a timely manner;

(4) Obtain firm commitments to provide necessary supportive services;

(5) Obtain firm commitments for other resources to be provided;

(6) Determine that the \$3,000 minimum amount of work requirement and other requirements in § 882.504(c)(2) and (3) are met;

(7) Determine eligibility of current tenants, and select the units to be assisted, in accordance with § 882.504(e);

(8) Comply with the financing requirements in § 882.504(i);

(9) Assure compliance with all other applicable requirements of this subpart; and

(10) In the event that the HA determines that any structure proposed in its application is infeasible, or the HA proposes to select a different structure for any other reason, the HA must submit information for the proposed alternative structure to HUD for review and approval. HUD will rate the proposed structure in accordance with procedures in the applicable notice of funding availability. The HA may not proceed with processing for the proposed structure or execute an Agreement until HUD notifies the HA that HUD has approved the proposed alternative structure and that all requirements have been met.

(d) *Initial contract rents.* Section 882.408 (Initial contract rents), including the establishment of fair market rents for SRO units at 75 percent of the O-bedroom Moderate Rehabilitation Fair Market Rent, applies to this program, except as follows:

(1)(i) In determining the monthly cost of a rehabilitation loan, in accordance with § 882.408(c)(2), a loan term of a least 10 years (instead of 15 years) may be used. The exception in § 882.408(c)(2)(iii) for using the actual loan term if the total amount of the rehabilitation is less than \$15,000 continues to apply. In addition, the cost of the rehabilitation that may be included for the purpose of calculating the amount of the initial contract rent for any unit must not exceed the lower of:

(A) The projected cost of rehabilitation; or

(B) The per unit cost limitation that is established by FEDERAL REGISTER notice, plus the cost of the fire and safety improvements required by § 882.803(b)(2). HUD may, however, increase the limitation in paragraph (d)(1)(i)(B) of this section by an amount HUD determines is reasonable and necessary to accommodate special local conditions, including high construction costs or stringent fire or building codes. HUD will publish future cost limitation changes in the FEDERAL REGISTER in the Notice of Funding Availability issued each year.

(ii) If the Federal Housing Administration (FHA) believes that high construction costs warrant an increase in

the per unit cost limitation in paragraph (d)(1)(i)(B) of this section, the HA must demonstrate to HUD's satisfaction that a higher average per unit amount is necessary to conduct this program, and that every appropriate step has been taken to contain the amount of the rehabilitation within the published per unit cost limitation established at that time, plus the cost of the required fire and safety improvements. These higher amounts will be determined as follows:

(A) HUD may approve a higher per unit amount up to, but not to exceed, an amount computed by multiplying the HUD-approved High Cost Percentage for Base Cities (used for computing FHA high cost area adjustments) for the area, by the current published cost limitation plus the cost of the required fire and safety improvements.

(B) HUD may, on a structure-by-structure basis, increase the level approved in paragraph (d)(1)(i) of this section to up to an amount computed by multiplying 2.4 by the current published cost limitation plus the cost of the required fire and safety improvements.

(2) In approving changes to initial contract rents during rehabilitation in accordance with § 882.408(d), the revised initial contract rents may not reflect an average per unit rehabilitation cost that exceeds the limitation specified in paragraph (d)(1) of this section.

(3) If the structure contains four or fewer SRO units, the Fair Market Rent for that size structure (the Fair Market Rent for a 1-, 2-, 3-, or 4-bedroom unit, as applicable) must be used to determine the Fair Market Rent limitation instead of using the separate Fair Market Rent for each SRO unit. To determine the Fair Market Rent limitation for each SRO unit, the Fair Market Rent for the structure must be apportioned equally to each SRO unit.

(4) Contract rents must not include the costs of providing supportive services, transportation, furniture, or other nonhousing costs, as determined by HUD. SRO program assistance may be used for efficiency units selected for rehabilitation under this program, but the gross rent (contract rent plus any Utility Allowance) for these units will be no higher than for SRO units (i.e., 75

percent of the 0-bedroom Moderate Rehabilitation Fair Market Rent).

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#### **§ 882.806 Agreement to enter into housing assistance payments.**

(a) *Rehabilitation period.* (1) *Agreement.* Before the owner begins any rehabilitation, the HA must enter into an Agreement with the owner in the form prescribed by HUD.

(2) *Timely performance of work.* Section 882.506(a) applies to this program. In addition, the Agreement must provide that the work must be completed and the contract executed within 12 months of execution of the ACC. HUD may reduce the number of units or the amount of the annual contribution commitment if, in HUD's determination, the HA fails to demonstrate a good faith effort to adhere to this schedule or if other reasons justify reducing the number of units.

(3) *Inspections.* Section 882.506(b) applies to this program.

(4) *Changes.* Section 882.506(c)(1) applies to this program. Contract rents may not be increased except in accordance with §§ 882.408(d) and 882.805(d)(2).

(b) *Completion of rehabilitation.* (1) *Notification of completion.* Section 882.507(a) applies to this program.

(2) *Evidence of completion.* Section 882.507(b) applies to this program, except that § 882.507(b)(2)(iv), concerning lead-based paint requirements, does not apply.

(3) *Actual cost and rehabilitation loan certifications.* Section 882.507(c) applies to this program, except that contract rents must be established in accordance with § 882.805(d).

(4) *Review and inspections.* Section 882.507(d) applies to this program.

(5) *Acceptance.* Section 882.507(e) applies to this program.

(Approved by the Office of Management and Budget under control number 2502-0367)

#### **§ 882.807 Housing assistance payments contract.**

(a) *Time of execution of contract.* Section 882.508(a) applies to this program.

(b) *Term of contract.* The contract for any unit rehabilitated in accordance with this program must be for a term of 10 years. The contract must give the